

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ANDY KIM, in his personal capacity
as a candidate for U.S. Senate, et al.

Plaintiffs,

vs.

CHRISTINE GIORDANO HANLON,
in her official capacity as Monmouth
County Clerk, et. al.,

Defendants.

- and -

DALE A. CROSS, in his official
capacity as Salem County Clerk, et al.,

as Interested

Parties.

Civil Action No.: 3:24-cv-1098
(ZNQ)(TJB)

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' MOTION IN
LIMINE NO. 7 TO EXCLUDE THE INTRODUCTION OR USE OF
REPORT OR OPINIONS OF RYAN MACIAS**

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Defendants Christopher Durkin, Joanne Rajoppi, and Danielle Ireland-Imhof, in their official capacities, respectfully submit this memorandum of law in support of their motion to exclude the testimony Ryan Macias as a proffered expert witness of Andy Kim and Andy Kim for New Jersey (collectively “Kim”), Sarah Schoengood and Sarah for New Jersey (collectively “Schoengood”), and Carolyn Rush and Carolyn Rush for Congress (collectively “Rush”, and with Kim and Schoengood “Plaintiffs”).

ARGUMENT

On March 13, 2024, Plaintiffs purported to introduce “a report by Mr. Ryan Macias in rebuttal to the defense’s contentions and in further support of Plaintiffs’ motion for summary judgment.” (Dkt. # 115). Mr. Macias’s “report” (Dkt. #115-1) and his testimony should be barred for two reasons. First, his report was filed and served after the time the Court gave Plaintiffs to reply to Defendants’ opposition to their motion for a preliminary injunction. (*See* Dkt #34). While, under ordinary circumstances, this delay might be excusable, these are not ordinary circumstances given the unfair surprise that Plaintiffs’ motion for emergent relief imposed on Defendants.

Second, his report should likewise be barred under Fed. R. Civ. P. 26(a)(2)(D)(ii) permits reports, such as Mr. Macias’s if they are “intended solely to contradict or rebut evidence on the same subject matter identified by another party

under Rule 26(a)(2)(B).” Rule 26(a)(2)(B), in turn, addresses witnesses “retained or specially employed to provide expert testimony in the case.” Because Mr. Macias’s report purportedly is a “rebuttal to the defense’s contentions” (Dkt. #115) and **not** to any expert testimony, neither it nor Mr. Macias’s testimony has any place in these proceedings, and both should be excluded from the evidentiary hearing on Plaintiffs’ motion for a preliminary injunction.

CONCLUSION

For all of the foregoing reasons, Defendants respectfully request that the Court grant their motion in *limine* and bar the introduction or use of the report or testimony of Ryan Macias.

Respectfully submitted,

GENOVA BURNS LLC

*Attorneys for Defendants,
Christopher Durkin, Joanne Rajoppi,
and Danielle Ireland-Imhoff*

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Dated: March 18, 2024